

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

ALICIA C. SANDOVAL, VC 2013-SU-023 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit fence greater than 4.0 ft. in height to remain in front yard, fence greater than 7.0 ft. in height to remain in side and rear yards. Located at 2710 Linda Marie Dr., Oakton, 22124, on approx. 1.14 ac. of land zoned R-1 (Cluster). Sully District. Tax Map 36-2 ((5)) 106 (Concurrent with SP 2013-SU-096). (Admin. moved from 1/29/14 for ads.) Ms. Theodore moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 26, 2014; and

WHEREAS, the Board has made the following findings of fact:

1. The owner of the property is the applicant.
2. The present zoning is R-1 (Cluster).
3. The area of the lot is 1.14 acres.
4. With respect to the standards for a variance that the application must satisfy, the subject property was acquired in good faith.
5. The subject property, based on the plat and the pictures, meets the following characteristics:
 - a. It has an exceptional shape at the time of the effective date of the Ordinance, and has an extraordinary condition or situation on the subject property. It is at the end of a long pipestem drive. It is not really visible as the Board heard from passersby. It is a 300-foot long driveway. It is surrounded by a heavily wooded resource protection area.
 - b. The condition of the project or intended use of the property is not so general or recurring of nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment.
 - c. The strict application of the Ordinance would produce undue hardship, and this hardship is not generally shared by other properties in the same district.
 - d. The strict application of the Zoning Ordinance would unreasonably restrict utilization of the property.
 - e. Authorization of the variance will not be of substantial detriment to adjacent property. Again, it is in a heavily wooded area off of the main road.

- f. The character of the zoning district would not be changed by the granting of the variance.
- g. The variance will be in harmony with the intended spirit and purpose of the Ordinance and will not be contrary to the public interest.

This application meets all of the following Required Standards for Variances in Section 18 404 of the Zoning Ordinance:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
- 3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
- 4. That the strict application of this Ordinance would produce undue hardship.
- 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
- 7. That authorization of the variance will not be of substantial detriment to adjacent property.
- 8. That the character of the zoning district will not be changed by the granting of the variance.
- 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical

difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This variance is approved for fences in excess of 6.0 feet in height in the front yard and fences in excess of 7.0 feet in height in the side yards as shown on the plat "Variance/Special Permit Plat, Lot 106, Section 3, Clarke's Landing" prepared by Guy H. Briggs, Land Surveyor, of Apex Surveys, dated April 29, 2013, as revised through July 29, 2013, as submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards including requirements for building permits.

Mr. Smith seconded the motion, which carried by a vote of 6-0. Mr. Hart recused himself from the public hearing.

A Copy Teste:


Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals